

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

Lynk Labs, Inc.,

Plaintiff,

v.

Home Depot USA, Inc., The Home Depot  
Inc., and Home Depot Product Authority,  
LLC,

Defendants.

Case No. 6:21-cv-00097-ADA

**JURY TRIAL DEMANDED**

**SCHEDULING ORDER**

<b>DATE</b>	<b>EVENT</b>
June 23, 2021	Plaintiff serves preliminary <sup>1</sup> infringement contentions in the form of a chart setting forth where in the accused product(s) each element of the asserted claim(s) are found. Plaintiff shall also identify the earliest priority date ( <i>i.e.</i> the earliest date of invention) for each asserted claim and produce: (1) all documents evidencing conception and reduction to practice for each claimed invention, and (2) a copy of the file history for each patent in suit.
August 18, 2021	Defendant serves preliminary invalidity contentions in the form of (1) a chart setting forth where in the prior art references each element of the asserted claim(s) are found, (2) an identification of any limitations the Defendant contends are indefinite or lack written description under section 112, and (3) an identification of any claims the Defendant contends are directed to ineligible subject matter under section 101. Defendant shall also produce (1) all prior art referenced in the invalidity contentions, and (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s)..

<sup>1</sup> The parties may amend preliminary infringement contentions and preliminary invalidity contentions without leave of court so long as counsel certifies that it undertook reasonable efforts to prepare its preliminary contentions and the amendment is based on material identified after those preliminary contentions were served, and should do so seasonably upon identifying any such material. Any amendment to add patent claims requires leave of court so that the Court can address any scheduling issues.

DATE	EVENT
September 1, 2021	Parties exchange claim terms for construction.
September 15, 2021	Parties exchange proposed claim constructions.
September 22, 2021	Parties disclose extrinsic evidence. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon with respect to claim construction or indefiniteness. With respect to any expert identified, the parties shall identify the scope of the topics for the witness's expected testimony. <sup>2</sup> With respect to items of extrinsic evidence, the parties shall identify each such item by production number or produce a copy of any such item if not previously produced.
September 29, 2021	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.
October 6, 2021	Defendant files opening claim construction brief, including any arguments that any claim terms are indefinite.
October 27, 2021	Plaintiff files Responsive claim construction brief.
November 10, 2021	Defendant files Reply claim construction brief.
November 24, 2021	Plaintiff files a Sur-Reply claim construction brief.
November 30, 2021	Parties submit Joint Claim Construction Statement. See General Issues Note #9 regarding providing copies of the briefing to the Court and the technical adviser (if appointed).
December 1, 2021	Parties submit optional technical tutorials to the Court and technical adviser (if appointed). <sup>3</sup>
December 8, 2021(or as soon as practicable)	<i>Markman</i> Hearing at 9:00 a.m. This date is a placeholder and the Court may adjust this date as the Markman hearing approaches.
December 9, 2021	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).
January 19, 2022	Deadline to add parties.
February 2, 2022	Deadline to serve Final Infringement and Invalidity Contentions. After this date, leave of Court is required for any amendment to Infringement or Invalidity contentions. This deadline does not relieve the Parties of their obligation to seasonably amend if new information is identified after initial contentions.

<sup>2</sup> Any party may utilize a rebuttal expert in response to a brief where expert testimony is relied upon by the other party.

<sup>3</sup> The parties should contact the law clerk to request a Box link so that they can directly upload the file to the Court's Box account.

DATE	EVENT
March 30, 2022	Deadline to amend pleadings. A motion is not required unless the amendment adds patents or patent claims. (Note: This includes amendments in response to a 12(c) motion.)
June 8, 2022	Deadline for the first of two meet and confers to discuss significantly narrowing the number of claims asserted and prior art references at issue. Unless the parties agree to the narrowing, they are ordered to contact the Court's Law Clerk to arrange a teleconference with the Court to resolve the disputed issues.
July 6, 2022	Close of Fact Discovery.
July 13, 2022	Opening Expert Reports.
August 10, 2022	Rebuttal Expert Reports.
August 31, 2022	Close of Expert Discovery.
September 7, 2022	Deadline for the second of two meet and confers to discuss narrowing the number of claims asserted and prior art references at issue to triable limits. To the extent it helps the parties determine these limits, the parties are encouraged to contact the Court's Law Clerk for an estimate of the amount of trial time anticipated per side. The parties shall file a Joint Report within 5 business days regarding the results of the meet and confer.
September 14, 2022	Dispositive motion deadline and <i>Daubert</i> motion deadline. See General Issues Note #9 regarding providing copies of the briefing to the Court and the technical advisor (if appointed).
September 28, 2022	Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).
October 12, 2022	Serve objections to pretrial disclosures/rebuttal disclosures.
October 19, 2022	Serve objections to rebuttal disclosures and <b>File</b> Motions <i>in limine</i>
October 26, 2022	File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to Motions <i>in limine</i> .
November 2, 2022	File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Kristie Davis at kmdaviscsr@yahoo.com.  Deadline to meet and confer regarding remaining objections and disputes on Motions <i>in limine</i> .
November 10, 2022	File joint notice identifying remaining objections to pretrial disclosures and disputes on Motions <i>in limine</i> .

DATE	EVENT
November 16, 2022	Final Pretrial Conference. The Court expects to set this date at the conclusion of the <i>Markman</i> Hearing. [TENTATIVE]
December 7, 2022	Jury Selection/Trial. The Court expects to set these dates at the conclusion of the Markman Hearing. [TENTATIVE]

SIGNED this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
ALAN D ALBRIGHT  
UNITED STATES DISTRICT JUDGE

AGREED: July 19, 2021

Respectfully submitted,

/s/ Darlene F. Ghavimi (w/permission)  
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HOME DEPOT U.S.A. INC., THE HOME

DEPOT, INC. and HOME DEPOT PRODUCT

AUTHORITY, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of the foregoing document via the Court's CM/ECF system per Local Civil Rule CV-5(b)(1) on July 19, 2021.

/s/ Jennifer Librach Nall

Jennifer Librach Nall